

Tamara GRIGSBY

Wisconsin State Representative
18th Assembly District

Testimony Before the Assembly Committee on Judiciary and Ethics February 24, 2009 Assembly Bill 60

I want to thank Chairman Hebl for scheduling Assembly Bill 60 for a public hearing. As the Assembly author of this bill I greatly appreciate the willingness of the Committee to listen to the testimony you will be hearing today.

Currently, if an individual is found guilty of violating a traffic regulation or a municipal ordinance the court may charge the person any applicable costs, fees and surcharges in addition to the forfeiture for the violation. Under current law an individual's license is suspended until they have paid their traffic forfeitures in full; additionally a municipal court may suspend an individual's license for failure to pay parking tickets and other municipal ordinance violations.

For some, these fines can be thousands of dollars and to pay all of that money at one time is an extreme financial burden for them and their families. AB 60 will allow indigent defendants one opportunity to have an installment payment plan ordered in lieu of the suspension of a driver's license. If the defendant subsequently fails to comply with the installment payment plan, then their license will be suspended and they will not have the opportunity to seek this alternative again. This will ensure that people are still able to drive to their jobs and continue to earn an income that will allow them to pay their fines. Without a driver's license it is often difficult to find or maintain employment, especially employment that provides a family-supporting wage.

In Wisconsin in 2007 the number one reason for license revocation or suspension was due to failure to pay forfeitures for traffic violations as well as municipal ordinance violations. Over 152,000 Wisconsin residents had their licenses suspended because they could not pay their fines in one lump sum.

A study by the University of Wisconsin Milwaukee Employment and Training Institute found that many Milwaukee teens are unlikely to be employed full time as adults due to non-driving license suspensions. Of 4,708 teens given suspensions for non-payment of juvenile fines, two years later, at ages 18 and 19, less than 10% of them had a driver's license. If these teens were able to set up a payment plan they would be able to pay off their fines and more of them would be licensed drivers.

It simply does not make sense to take away a person's license because they are poor and unable to pay their fine in full up front. In suspending their license and depriving them of the opportunity to get to work we are creating another barrier for them to be able to comply with the court order and complete the payment of their fine. We know from experience that many of these individuals will continue to drive, risking further fines and penalties, so they can continue to get to their jobs and maintain their livelihood. It is in all of our best interests to have legitimate licensed drivers

on our roadways. Let's give these individuals the help they need to continue to drive legally so they are able to meet all of their financial obligations.

Under this bill, the court will be required to set up reasonable payment plans, based on income, for individuals who are unable to pay their fines due to poverty. If the individual fails to comply with the payment plan, then the court has the authority to suspend that person's license.

I thank the committee for your time and consideration of this matter. I am happy to answer any questions Committee members may have.



STATE REPRESENTATIVE
CORY MASON

WISCONSIN STATE ASSEMBLY
62ND ASSEMBLY DISTRICT
REPRESENTING THE GREATER RACINE COMMUNITY

TO: Assembly Committee on Judiciary and Ethics

FROM: Representative Cory Mason

RE: Assembly Bills 60 and 61; Assembly Joint Resolution 15

DATE: February 24, 2009

Thank you, Chair Hebl, for the opportunity to comment on Assembly Bills 60 and 61 and Assembly Joint Resolution 15.

These bills represent important policy improvements that will free up valuable criminal and municipal resources to pursue more serious offenses, thereby enhancing public safety. But equally important, these bills promote pathways to family-supporting jobs.

I co-chair with Representative Turner the Labor Development Committee of DOT's I-94 North South Corridor Study. The purpose of the Committee is to assess and coordinate the job training and technical assistance necessary to keep labor on this section of I-94 local.

It was surprising to learn through this Committee that one of the biggest impediments people in my district have to getting these jobs is a revoked license. In fact, having a revoked or suspended driver's license is as big a barrier to these jobs as not having a high school diploma.

In addition to the difficulty people would have in reliably accessing buildings and trades job sites without a driver's license, the cost of insurance is such that these jobs can't afford to employ people who do not have their driver's licenses. Moreover, there are safety issues at stake.

Before I conclude, I want to be absolutely clear about one thing: These bills do not put driver's licenses back into the hands of unsafe drivers; rather, these bills put an end to several policies that perpetuate a vicious cycle of joblessness and poverty in my community. If we are serious about putting people back to work in these turbulent economic times, we should work to move these bills quickly through the Legislature.

Thank you for your time. I'm happy to answer your questions.


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LEGALAction
OF WISCONSIN**40 Years of Justice**

TO: Assembly Committee on Judiciary and Ethics

FROM: Bob Andersen 

RE: Assembly Bill 60, relating to payment of judgements in traffic courts and municipal courts by installments and the suspension of operating privileges

DATE: February 24, 2009

Legal Action of Wisconsin, Inc. (LAW) is a nonprofit organization funded by the federal Legal Services Corporation, Inc., to provide legal services for low income people in 39 counties in Wisconsin. LAW provides representation for low income people across a territory that extends from the very populous southeastern corner of the state up through Brown County in the east and La Crosse County in the west. One of the programs of LAW focuses on the removal of barriers to employment, through which we are involved in the restoration of driver's licenses.

Assembly Bill 60 is the same as 2007 SB 412, introduced by Senator Taylor, which was approved by the Senate Committee on Judiciary, Corrections and Housing 5-0 and passed by the full Senate on a voice vote during the past session. It is the same as a bill introduced during the **1999 session** (1999 AB 846) that passed the **Assembly Judiciary Committee by a vote of 9-0**, was approved by the **Assembly on a voice vote**, passed the **Senate Committee on Judiciary and Consumer Affairs** by a vote of **5-0**, but failed to pass in the Senate at the end of the session. At the time, there was much controversy over a budget bill enactment that repealed the authority of municipal court judges to suspend driver's licenses for non-traffic violations and it was feared that this bill would be amended in the Senate to undo that repeal. Consequently, the bill was never taken up in the Senate. **The same bill was reintroduced in the Senate in 2001** (2001 SB 253), passed the **Senate on a voice vote**, was given a hearing by the Assembly Judiciary Committee, but failed as time ran out, as the enthusiasm of the municipal court judges waned.

The bill was initially drafted with the support of the Municipal Court Judges Association legislative liaison, Michael Hurt, and Sheryl Gervasi, Director of State Court's Office, on behalf of the state's circuit court judges.

I. Purpose

The bill allows low income people the opportunity to avoid the automatic suspension of their licenses by making payments of forfeitures in installments. The bill has an important effect on the success of W-2. W-2 providers report that one of the greatest barriers to successful

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employment for W-2 participants is their inability to drive to job sites because of suspended driver's licenses. Many W-2 participants have suspended driver's licenses because they failed to pay parking tickets, failed to pay forfeitures for moving traffic ordinance violations, or failed to pay forfeitures for other municipal ordinance violations. In many cases, participants have had their licenses suspended because default judgements were entered against them for failure to appear on the return dates.

The bill allows indigent defendants one opportunity to have an installment payment plan ordered in lieu of the suspension of a driver's license. That one opportunity can be offered before the judgment is initially entered or it can be offered after a judgement is entered. Allowing installment payment plans already is the practice for many municipal courts. The bill will make this a uniform practice and will allow jurisdictions, who currently do not believe they have the authority, to enter these installment payment plans.

II. Provisions of the Bill

A. Before Judgements are Initially Entered, Municipal Courts and Circuit Courts are Required to Offer Indigent Defendants Installment Payment Plans Before Suspending their Driver's Licenses, When Defendants Appear in Court.

When defendants appear in court to answer to the charges and are found guilty of ordinance violations, courts are required to first offer them an opportunity to pay the forfeitures by installments, before suspending their driver's licenses, if the defendants are unable to pay because of their poverty. If the defendants subsequently fail to comply with the installment payment plans, their licenses will be suspended.

This is the practice that is actually being followed by many municipal courts and circuit courts. The bill ensures that this practice will be codified in the statutes and that it will be followed by all courts, in municipal ordinance violation cases.

B. After Judgments Have Already Been Entered, Defendants Who are Unable to Pay Because of Poverty may Obtain Installment Payment Plans in Lieu of the Suspension of their Licenses, Provided that They Have Not Previously Been Given an Installment Payment Plan and Failed to Comply with the Plan.

This bill provides that a court shall terminate the suspension of a driver's license that was previously ordered because of an ordinance violation, and substitute an installment payment plan therefor, if all of the following circumstances are met:

- (1) the defendant requests the installment payment plan.
- (2) the defendant is unable to pay because of poverty.
- (3) the defendant has not previously failed an installment payment plan that has been ordered by the court.

If an installment payment plan is ordered under these circumstances and the defendant subsequently fails to comply with the plan, the suspension of the license will be reinstated.

This proposal is considered to be a better approach than requiring the reopening of judgments in these cases. Instead of requiring judgments to be reopened -- which creates administrative problems for the courts and which unsettles those judgments -- this proposal avoids those problems by simply requiring that orders for license suspension be terminated.

C. The Determination that a Person is "Unable to Pay Because of Poverty" Uses the Same Criteria that Already Exists in the Statutes under s. 814.29, Regarding the Waiver of Costs and Fees for Persons who are Unable to Pay Because of Poverty.

In order to establish a uniform definition of poverty for all courts, this bill incorporates the determination of when a person is unable to pay because of poverty that already exists in the statutes, under s. 814.29 (1)(d). Under that section, essentially, a person is determined to be unable to pay costs and fees because of poverty if any of the following is true:

- (1) that the defendant is a recipient of means tested public assistance, including Wisconsin Works, general relief under Chapter 49, relief provided by the counties under s. 59.53 (21), medical assistance, supplemental security income, food stamps, or benefits received by veterans under 45.351 (1) or under 38 USC 501 to 562.
- (2) that the person is represented by an attorney through a legal services program for indigent persons, including, without limitation, those funded by the federal legal services corporation, the state public defender or volunteer attorney programs based on indigency.
- (3) that the person is otherwise unable, because of poverty, to pay the fees and costs. In considering the defendant's inability, the court shall consider the person's household size, income, expenses, assets and debts and the federal poverty guidelines under 42 USC 9902.

Under this bill, if a defendant meets these criteria, the defendant would be entitled to an installment payment plan in lieu of the suspension of a license, provided the defendant had not already been offered such an option and failed to comply with the plan.

D. The Installment Payment Plan Required under this Bill Would be Required to be a "Reasonable Installment Payment Plan that takes into Account the Defendant's Income."

The purposes of this bill will not be achieved if a genuinely poor person, taking a look at assets and income, cannot make payments because of current income.

Editorial: Unfair suspensions leave workers idling

Revoking or suspending driver's licenses in Wisconsin has made it all that much harder for low-income residents to obtain and retain employment.

Posted: Jan. 19, 2008

Officials are acting much too slowly on a pressing problem: the epidemic of suspended or revoked driver's licenses in Wisconsin. The problem is wreaking havoc in Milwaukee County and elsewhere in the state.

By grounding workers, the problem slows the economy and exacerbates poverty. By punishing being broke more than bad driving - the single biggest reason for voided licenses is failure to pay fines - the suspensions betray American ideals. What's more, the glut of suspensions is clogging the courts and undermining respect for the law, particularly in Milwaukee's inner city, where the voided licenses are rife.

Lawmakers must end this epidemic by voiding the many laws that mandate or permit the suspension or revocation of driver's licenses for offenses unrelated to bad driving.

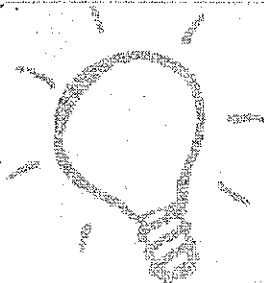
In Milwaukee County, suspended or revoked licenses saddle one of every eight driving-age residents, more than half of whom never held real licenses to begin with. The state voids even nonexistent licenses - which hampers getting a real one.

State lawmakers and Gov. Jim Doyle must do the following:

Opt out of a federal law that requires at least a six-month suspension of driver's licenses for all drug offenses. This law is likely making Wisconsin more dangerous than it would be otherwise by thinning the already slim chances of former drug offenders of obtaining work. According to the New York City-based Legal Action Center, 27 states already have opted out of the law.

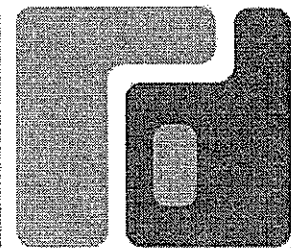
Require the courts to grant indigent or low-income defendants reasonable installment payment plans in lieu of the automatic suspension of their licenses. The statute

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should permit defendants with licenses already suspended to reopen their cases and to pay by installment.

Allow state courts to do as municipal courts are now allowed to do: sentence indigent defendants to community service in non-criminal traffic offenses.

Encourage courts to collect overdue fines through holds on income tax refunds. Even poor people get such refunds, through the earned income tax credit - that is, if they're allowed to get to their jobs.

Reinstitute universal driver's education in the public schools. This will better enable poor kids to obtain driver's licenses. The program could be paid for by a surcharge on drunken driving convictions. Besides teaching motoring skills, driver's ed instills such values as the importance of maintaining a valid driver's license.

Bar courts from charging fees to reopen driver's license cases. Perhaps peg fines to ability to pay, as some other countries do.

Step up funding for agencies helping poor residents gain valid licenses, such as the Center for Driver's License Recovery and

Employability, housed at the Milwaukee Area Technical College's downtown campus.

Public and private agencies should take these steps:

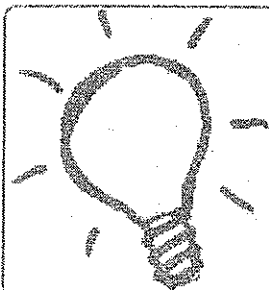
Agencies involved in boosting employment should milk driver's license data to identify participants who need help in getting valid licenses, as advocated by the University of Wisconsin-Milwaukee's Employment & Training Institute. The lack of such a license is the No. 1 barrier to employment, even bigger than the lack of a high school diploma or of day care.

The state Department of Workforce Development should require that Wisconsin Works agencies aggressively seek to help their clients repair any driver's license problems.

An ETI study showed that only 7% of released inmates had valid licenses, and most have license suspensions or revocations. The Department of Corrections should help its population to obtain valid driver's licenses upon release.

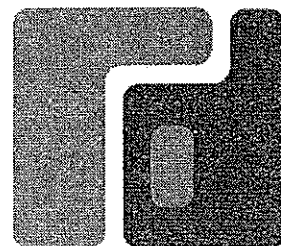
Local governments should take these steps:

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They should forbid the use of driver's license suspension for non-payment of fines.

Yes, needy offenders must be held accountable - but through installment plans, community service or tax holds. The Milwaukee Common Council must take action, but that alone won't be enough.

Suburban police are stopping many Milwaukee residents who lack driver's licenses. So suburban governments should adopt this policy, too.

The Milwaukee Common Council should end the quaint practice of requiring residents to pay for the privilege of parking in front of their homes - a practice that disadvantages both the upscale east side and the poverty-stricken inner city, where off-street parking is relatively scarce.

Yes, such fees, and the parking tickets that result from failure to pay, are a lucrative source of city income. But they're also an unfair tax because of the burden they put on the poor. Failure to pay tickets can result in the suspension of a vehicle's registration. And driving with such a suspension can lead to the suspension of driver's licenses.

Finally, private employers have a role to play. For some reason, more and more employers seem to require a driver's license for prospective employees whose jobs don't entail driving. Employers should require a license only if it's related to the job.

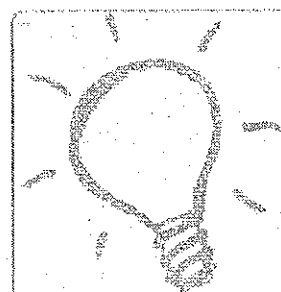
Unfortunately, in the 1980s and '90s, politicians turned to the suspension of driver's licenses to punish all manner of wrongdoing not related to driving. The result was an explosion in such suspensions.

The suspensions may be achieving their intended effect in middle- and upper-class neighborhoods. But they are certainly not working in poor communities. Instead, they are blocking access to a possible escape hatch from poverty: jobs.

What reforms, if any, do you favor to help the poor maintain valid driver's licenses? Send a letter to: Journal Sentinel editorial department

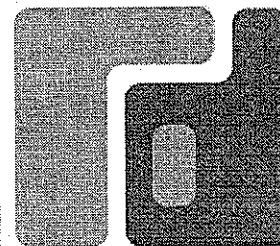
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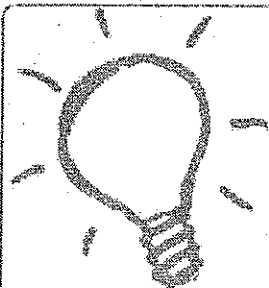
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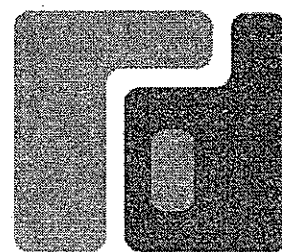
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